

(e) When the Marketable Quantity is equal to or smaller than total Base Quantities, the first 37,500 crates of each producer's Base Quantity shall be subtracted from both the Marketable Quantity and total Base Quantities when the Uniform Percentage is calculated in this section (§967.38(a)), and the Uniform Percentage for the first 37,500 crates will be 100 percent. In the event the Marketable Quantity exceeds total Base Quantities, there shall be no exemption for the first 37,500 crates and the Uniform Percentage shall be applied to each producer's total Base Quantity.

(f) Marketable allotments shall be issued only to producers who have registered by May 1, or such other date prescribed by the Secretary, and indicated firm and substantial commitments for the production of celery for the forthcoming season.

[30 FR 14266, Nov. 13, 1965, as amended at 42 FR 32764, June 28, 1977]

§967.39 Transfers.

(a) Producers' Base Quantities or Marketable Allotments, or both, may be transferred upon appropriate requests therefor, pursuant to §967.37 and upon approval of the committee.

(b) Any producer with a Base Quantity may request a transfer of all or a portion of his Base Quantity for a specified period of time.

(c) Any producer with a Marketable Allotment may request a transfer of all or a portion of his Marketable Allotment during a current season.

(d) Producers must advise the committee, prior to final approval of a transfer, that a different amount will be handled by a handler or handlers due to any transfer authorized in paragraph (c) of this section. The committee, upon receipt of such notification, shall advise the handler or handlers involved of the adjustments in the amount they may handle as first handlers thereof for the current season, based upon the number of crates involved in the transfer, as well as issue revised Marketable Allotments to the producers involved.

OTHER REGULATIONS

§967.40 Issuance of other regulations.

(a) The Secretary may limit the handling of celery whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the act.

(b) Such regulations may:

(1) Establish specific Flow-to-Market periods and limit the total quantity of celery which may be handled therein;

(i) The committee may recommend and the Secretary may issue such rules as are necessary to effectuate the Flow-to-Market procedures and regulations.

(ii) The committee may recommend to the Secretary and the Secretary may limit in conformity with paragraph (a) of this section the total quantity of celery which is deemed advisable to be handled during any specified Flow-to-Market period or periods.

(iii) In making its recommendations, the committee shall give due consideration to the following factors:

(a) Market prices for celery; (b) supply of celery on hand at shipping point, on track at, and en route to, the principal markets; (c) supply, maturity, and condition of celery in the production area; (d) market prices and supplies of celery from competitive producing areas, and supplies of other competitive vegetables; (e) trend and level in consumer income; and (f) other relevant factors as specified by the committee in its recommendation.

(iv) At any time during a Flow-to-Market period for which the Secretary has fixed the quantity of celery which may be handled, the committee may recommend to the Secretary that such quantity be increased for such period. Each such recommendation, together with the committee's reason for such recommendation, shall be submitted promptly to the Secretary.

(v) Whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of celery which may be handled during a specified Flow-to-Market period will tend to effectuate the declared policy of the Act,

he shall fix such quantity. The quantity so fixed for any such period may be increased by the Secretary at any time during such period. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation at any time.

(vi)(a) At the times specified by the committee, each handler of celery shall submit to the committee, on forms to be supplied by the committee, a report setting forth the number of crates each producer or farm operation will make available to him for handling during the applicable period; and in the case of a farm operation, shall specify the number of total crates available which are to be attributed to each holder of a Marketable Allotment who is involved in the farm operation so that each holder of a Marketable Allotment is treated as an individual producer for the purposes of the Flow-to-Market regulation.

(b) Such written request and report shall be submitted at such time and in such manner and contain such other information as the committee may recommend and the Secretary approve.

(c) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction.

(vii)(a) Whenever the Secretary has fixed the total quantity of celery that may be handled during a regulated Flow-to-Market period, the committee shall compute under a uniform rule, for each producer entitled thereto, the quantity of celery which may be handled for or purchased from him by handlers during such period. The amount to be handled under these regulations will be in addition to that quantity of harvested celery a handler has on hand at the commencement of the specified Flow-to-Market period, as reflected in required reports approved for committee use by the Secretary.

(b) The percentage obtained by dividing the quantity of crates set by the

Secretary for such Flow-to-Market period by the total crates stated to be available by all handlers for such period shall be applied uniformly to the amount available for handling for each producer to determine the maximum number of crates that may be handled by or for him during that period: *Provided*, That it is within his unused Marketable Allotment pursuant to § 967.38: *And provided further*, That until more than 37,500 crates of his production has been handled on his behalf during the current season, the handler thereof shall not have the number of crates he handles for or sells on behalf of such producer reduced by the Flow-to-Market regulation; however such handler shall be limited to 100 percent of that which was stated to be marketable in such Flow-to-Market period for that producer.

(c) For the purpose of determining compliance with Flow-to-Market limitations, a tolerance of 1 percent of an allotment holder's allowed Flow-to-Market quantity for such period or 200 crates, whichever is less, is permitted.

(viii) Verification of compliance with allotments: During any season or Flow-to-Market period for which allotment regulations are in effect, all acreage of celery included in applications for allotments shall be subject to field checking by the committee to determine compliance with allotments. Checking procedures, methods for establishing committee determinations, means for notifying handlers and other persons of the extent to which allotments have been used shall be in accordance with rules recommended by the committee and approved by the Secretary.

(2) Establish total holidays by limiting the handling of harvested celery during a specified period or periods. The amount to be handled under these regulations will be that quantity of harvested celery a handler has on hand at the commencement of the holiday, as reflected in required reports approved for committee use by the Secretary;

(3) Limit in any or all portions of the production area the handling of particular grades, sizes, qualities, containers, or packs or any combination thereof, of celery during any period; also,

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limit the handling of particular grades, sizes, or qualities, or celery differently, for different varieties, for different portions of the production area, for different markets, for different sizes and types of containers, or for any combination of the foregoing, during any period;

(4) Limit the handling of celery when parity prices have been reached by establishing and maintaining minimum standards of quality and maturity in terms of grades or sizes;

(5) Require uniform inspection, grading and certification of celery and proper labeling of containers for celery to show the grade or size, or both, thereof;

(6) Fix the size, capacity, weight, dimensions, or pack of the container or containers which may be handled.

(c) Regulations issued hereunder may be amended, modified, suspended, or terminated by the Secretary whenever it is determined:

(1) That such action is warranted upon recommendation of the committee or on the basis of other available information;

(2) That such action is essential to provide relief from inspection, or regulations under paragraph (b) of this section, for minimum quantities less than customary commercial transactions as recommended by the committee and approved by the Secretary; or

(3) That regulations issued hereunder no longer tend to effectuate the declared policy of the Act.

[33 FR 17847, Nov. 30, 1968]

§ 967.41 Handling for special purposes.

Regulations in effect pursuant to § 967.38 or § 967.40 may be modified, suspended, or terminated to facilitate handling of celery for:

(a) Exports;

(b) Relief or charity;

(c) Experimental purposes; and

(d) Other purposes which may be recommended by the committee and approved by the Secretary.

[33 FR 17847, Nov. 30, 1968]

§ 967.42 Safeguards.

The committee, with the approval of the Secretary, may establish through rules such requirements as may be nec-

essary to insure that shipments made pursuant to § 967.41 were handled and used for the purpose stated.

[33 FR 17847, Nov. 30, 1968]

INSPECTION

§ 967.43 Inspection and certification.

(a) Whenever the handling of celery is regulated pursuant to § 967.40(b)(3) through (5), or at other times when recommended by the committee and approved by the Secretary, no handler shall handle celery unless such celery is inspected by an authorized representative of the Federal or Federal-State Inspection Service and is covered by a valid inspection certificate, except when relieved from such requirements pursuant to § 967.40(c) or paragraph (b) of this section.

(b) Regrading, resorting, or repacking any lot of celery shall invalidate any prior inspection certificate insofar as the requirements of this section are concerned. No handler shall handle celery after it has been regraded, resorted, repacked or in any way additionally prepared for market, unless such celery is inspected by an authorized representative of the Federal or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, or repacked celery may be modified, suspended, or terminated upon recommendation by the committee, and approval of the Secretary.

(c) Upon recommendation of the committee and approval by the Secretary, any or all celery so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the containers by the handler under the direction and supervision of a Federal or Federal-State Inspector or the committee.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When celery is inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.